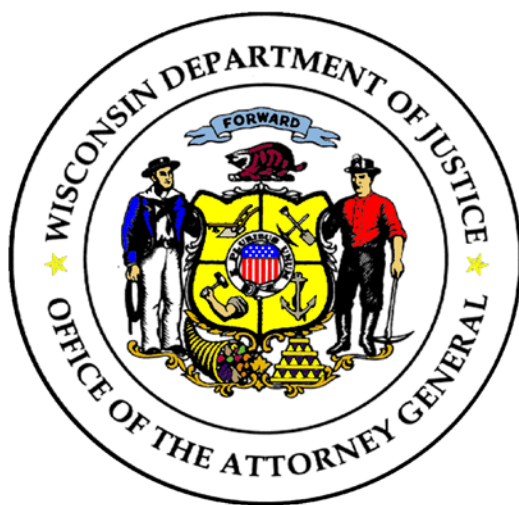


Firearm Safety Course

A Training Guide For Concealed Carry Licenses



**Wisconsin Department of Justice
January 2012**

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- Kenosha News and Michael Lesnick (*Gun Safety Comes Too Late for Dad*, Appendix B)
- Eau Claire Leader Telegram (*Charges Filed in River Falls Shooting Death*, Instructor Resources)
- National Rifle Association (*Eddie Eagle* gun safety for children, p. 18)
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DISCLAIMER

The purpose of this model curriculum is to support implementation of 2011 Wisconsin Act 35. Every effort has been made to be as accurate as possible. However, this document does not constitute either an informal or formal opinion of the Wisconsin Attorney General or the Wisconsin Department of Justice as described in Wis. Stat. § 165.015(1). It does not constitute legal advice or counsel. It does not create an attorney-client relationship. It creates no rights beyond those established under the constitutions, statutes, regulations and administrative rules of the United States and the State of Wisconsin. It does not attempt to provide answers to every question that may arise regarding the carrying of concealed weapons. Many factors may affect a person's decision whether to apply for a license to carry concealed weapons in Wisconsin. You should review the statutes governing CCW and consult a private attorney for specific information and advice when necessary and appropriate.

This document reflects the law as of the date of its publication. It may be superseded or affected by other versions or changes in the law.

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INTRODUCTION

This model curriculum has been developed to support implementation of 2011 Wisconsin Act 35.¹ This course provides an overview of handgun safety practices and concealed carry considerations. It is designed as a *safety* course, not a *training* course. For example, this course teaches you how to identify a loaded handgun and how to safely unload it, but does not teach how to load or fire a handgun. This course does not substitute for practice and training in handgun operation. Furthermore, it does not address all the provisions of Wisconsin Act 35, such as changes to laws governing knives or electric weapons.

Instructors acting under the authority of Wisconsin Department of Justice (DOJ) certification are required to teach this curriculum in its entirety. These materials may also be used by instructors certified by organizations other than the DOJ. However, those instructors shall not represent themselves or their course as certified by the DOJ.

Additional instructor materials, including an Instructor Guide, PowerPoint presentation, and Performance Assessment Tasks are available on the DOJ website:

<http://www.doj.state.wi.us/dles/cib/ConcealedCarry/ConcealedCarry.asp>.

Finally, instructors must become familiar with Wisconsin Administrative Code JUS 17,² which implements the provisions of 2011 Wisconsin Act 35. Instructors must ensure their qualifications, courses, and certificates meet Wisconsin requirements.

¹ 2011 WI Act 35 may be downloaded at <http://legis.wisconsin.gov/2011/data/acts/11Act35.pdf>.

² JUS 17 may be viewed here: <http://legis.wisconsin.gov/rsb/code.htm>.

COMPETENCIES AND LEARNING OBJECTIVES

In this course, students will learn the basics of firearm safety and Wisconsin requirements and considerations regarding the carry of a concealed weapon.

Competencies and Learning Objectives

1. Recognize the Wisconsin Department of Justice process for obtaining, maintaining, and renewing a concealed carry permit.
 - a. Complete an application to obtain a permit to carry concealed.
 - b. Collect the items needed to be submitted with the application.
 - c. Review the process for renewing the permit.
 - d. Provide a change of address when necessary.
2. Accept responsibility for firearm safety in your home and in public.
 - a. Adhere to the four rules of firearm safety.
 - b. Demonstrate how to safely unload your weapon.
 - c. Advise your family on the safety rules for weapons in your home.
 - d. Advise your children what to do when they come across a weapon.
 - e. Review Wis. Stat. § 948.55, Leaving or storing a loaded firearm within the reach or easy access of a child.
3. Analyze considerations regarding the carry of a concealed weapon.
 - a. Identify ways to conceal a weapon.
 - b. Maintain control of your weapon.
 - c. Avoid the need to use your weapon.
 - d. Demonstrate what to do if you are encountered by law enforcement.
4. Discuss the legal implications of carrying a concealed weapon.
 - a. Identify the elements of the Wisconsin concealed carry law.
 - b. Review Wis. Stat. § 939.48, Self defense and the defense of others.
 - c. Review Wis. Stat. § 939.49, Defense of property and protection of retail theft.
 - d. List the locations where you cannot carry concealed.

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FIREARM SAFETY

Firearms are lethal instruments. If they are handled carelessly or irresponsibly, their hazard is obvious. This led to the development of safety rules that—when followed—prevent injuries and deaths. You will learn these fundamental safety rules; you will practice them throughout this class; and you will demonstrate proficiency following these rules to successfully complete this course.

Your safety, however, does not end with these rules. As a concealed carry license holder you must recognize other considerations that affect your physical and legal safety. This course will introduce additional safety concepts including storage practices, carry considerations, and legalities of use of force.

This chapter discusses the four fundamental rules of safe firearm handling. It then discusses safe practices for unloading, storing, and carrying your weapon.

FOUR FUNDAMENTAL RULES OF FIREARM SAFETY

You are responsible for learning the four fundamental safety rules and following them at all times. These rules must **always** be followed to prevent unsafe or unintentional firing.

If you are a new firearm user, train yourself to practice these rules until you can perform them subconsciously. If you are an experienced shooter, you must constantly be aware of the danger of familiarity, and how this familiarity can lead to complacency. In either case, always follow these fundamental safety rules whenever you handle a weapon.

Firearm accidents are most commonly caused by carelessness or ignorance.

1. *Treat every gun as if it is loaded.*

Even if you are *certain* the weapon is empty, always treat it as a loaded gun. Never accept another person's word that a gun is unloaded—verify this for yourself. Many people have been accidentally killed with “unloaded” guns.

2. *Never let the muzzle cross anything you are not willing to destroy.*

Imagine a laser beam coming out of the barrel of your weapon. Never let that laser touch anything—even for a moment—that you aren't willing to shoot. Keep the weapon pointed in a direction that will safely stop any bullet fired.

3. *Keep your finger off the trigger and outside the trigger guard until you want the gun to fire.*

Keep your index finger extended along the frame of the weapon until your sights are on your target and you want to fire. This prevents you from unintentionally firing because you were startled or clutched something with your other hand.

4. *Know your target and what's beyond it.*

Always positively identify your target as what you intend to shoot. Be absolutely certain of what or who you are shooting. Know that bullets may travel through a target and strike something behind it. Finally, you may miss, especially under stress.

ADDITIONAL SAFETY CONSIDERATIONS

The four fundamental safety rules listed above apply whenever you handle a firearm. Safe firearm ownership requires that you adhere to additional safe practices when carrying and storing weapons.

- Secure your weapon away from children and other unauthorized persons. Weapons should never be left unattended unless properly secured.
- Obtain training in firearm use. Merely possessing a firearm doesn't make you a safe or accurate shooter, in the same way that owning a piano doesn't make you a musician. Your safety—and the safety of those around you—demands that you can operate your weapon competently.
- Handle weapons only while sober. Never handle weapons after consumption of alcohol or drugs. Negligent, drunken firearm deaths occur far too frequently. And it's against the law.
- Properly maintain your weapon. A broken, neglected, or poorly maintained firearm may not function when you need it, or may fire when it should not.
- Use the correct ammunition. Ammunition must be of the correct type for the handgun, and must be kept dry, free from oil or grease, and away from excess heat.
- Inspect and maintain your accessory equipment. Always use a quality holster that was originally designed to carry that particular firearm.
- Read and follow the instructions in your weapon's owner's manual, ammunition boxes, and any related accessories.

Always remember that firearms are lethal devices. A momentary lapse in concentration or attentiveness can have fatal results. Whenever you handle a firearm, give it your full care and attention—your safety and the safety of others depends on it.

HOW TO SAFELY UNLOAD YOUR HANDGUN

An important part of firearm safety is the ability to determine whether a weapon is loaded, and knowing how to safely unload. As part of this course you will be taught to determine whether your handgun is loaded and how to safely unload it.

Failure to perform unloading sequences in the proper order can leave a weapon loaded while you mistakenly believe it is unloaded. If you are ever uncertain or unable to determine whether a weapon is loaded, immediately obtain competent assistance.

Some handguns have idiosyncrasies not covered in this manual. Talk to your instructor about the particular handgun you intend to carry. *You* are responsible for knowing how to safely load, operate, fire, and unload your handgun.

Handgun Types

Safe handling and unloading requires you to know the name of essential parts of your handgun. Self-defense handguns usually fall into two common types—revolvers and pistols. “Revolvers” hold ammunition in a cylinder which rotates into a firing position before each shot is fired. “Pistols” store ammunition in a magazine but fire it from the chamber of the barrel.

Revolvers

The main components of a revolver are shown in Figure 1. Most self-defense revolvers are “double-action,” which means that pulling the trigger cocks and releases the hammer and rotates the cylinder.³ The cylinder of these revolvers usually swings out for rapid loading and unloading.

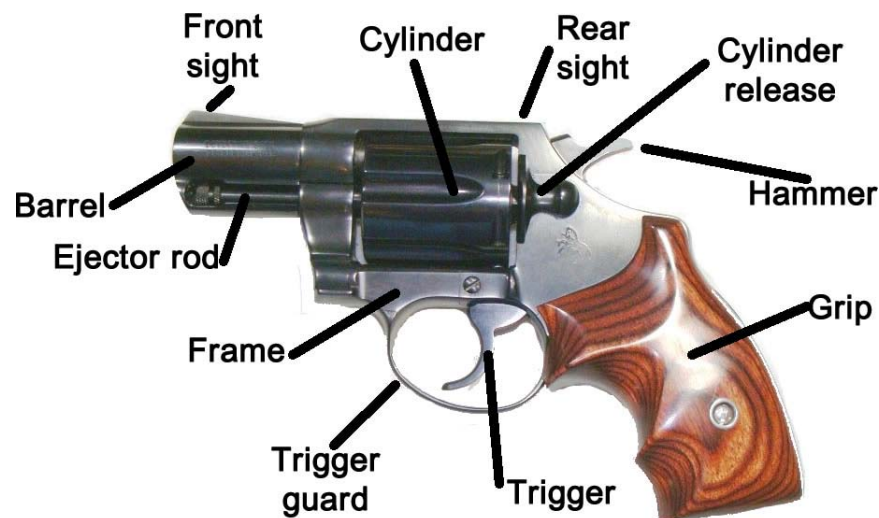


Figure 1: Double-action revolver

³ “Single-action” revolvers are not commonly used for self-defense and are not addressed in this guide. Follow the owner’s manual and consult your instructor.

To unload a revolver, perform the following actions. *Remember to keep the revolver pointed in a safe direction with your finger outside the trigger guard.*

1. Activate the cylinder release. (Depending on your model, it may need to be pushed forward, pulled back, or pressed inward.)
2. Swing the cylinder out of the revolver. This will make the rear of the cylinder visible.
3. Visually and physically examine the cylinder chambers for ammunition. *Look into each cylinder. Feel the rear of the cylinder to confirm no ammunition is present.* (See Figure 2)
4. If cartridges are present, point the revolver up and press down sharply on the ejector rod. This extracts and ejects cartridges in the cylinder. Re-examine the chambers to confirm all of them are empty.



Figure 2: Loaded and unloaded revolver

Pistols

The main components of a pistol are shown in Figure 3. The slide of a semi-automatic pistol moves back and forth when firing, using the energy of the fired cartridge to load the next round.



Figure 3: Semi-automatic pistol

Pistols contain cartridges in two locations: the barrel's chamber and a detachable magazine. If a user does not follow the correct sequence when unloading a pistol, a cartridge may remain in the chamber even when the magazine is removed.

A pistol is not unloaded just because the magazine is removed. Ammunition may be in the chamber, ready to fire.

To unload a pistol, perform the following actions. *Remember to keep the pistol pointed in a safe direction with your finger outside the trigger guard.*

1. Press the magazine release and remove the magazine. (The magazine release is usually just behind the trigger guard, although a few pistols locate this at the bottom of the magazine.) Set the magazine aside.
2. Pull the slide to the rear while keeping your hand away from the ejection port. Lock the slide to the rear using the slide stop.⁴ If a round was in the chamber, it should have been extracted from the chamber and ejected from the gun.
3. Visually and physically examine the chamber of the barrel for the presence of a cartridge.⁵ *Look into the chamber. Feel that the magazine has been removed and the chamber is empty.*

⁴ Some pistols are not equipped with slide stops and do not allow their slides to be locked to the rear.

⁵ There are multiple reasons a cartridge could remain in the chamber, including a defective extractor, dirty chamber, or faulty ammunition. Furthermore, some pistols (such as the Beretta 21A and similar models) were designed without an extractor and require a different unloading method—consult those guns' owner's manuals.



Figure 4: Chamber empty (L); cartridge remains in chamber (R)



Figure 5: Unloaded (L) and loaded (R) magazine

Pistols may or may not have a manual safety. Safeties are usually small levers or buttons that, when activated, block the firing mechanism. Some safeties also prevent the slide from moving. *Users must follow all the fundamental rules of firearm safety even when a safety is activated.* Safeties are mechanical devices that can malfunction, fail, or be inadvertently deactivated. Never rely on them. *Always practice the fundamental rules of firearm safety.*

Safety and “Unloaded” Guns

Although you have now unloaded your handgun, all the fundamental rules of firearm safety still apply. “Unloaded” guns kill many people every year. There is always a risk of human error. A moment of distraction is all that’s necessary for a life-ending tragedy. You must still obey the four fundamental rules of firearm safety at all times.

WEAPONS IN YOUR HOME

While a weapon may be a tool to help defend yourself or your family, it can become a deadly hazard when accessible to untrained, careless, or irresponsible guests, visitors, or family members. Every year many people are accidentally shot or killed by a family member.

Families have different situations, requirements, and needs. During this training course you will develop a safety plan for your family. Two key components of any safety plan include ensuring your family knows the fundamental rules of gun safety and storing firearms appropriately.

The most secure way to store a handgun is unloaded, locked up, with ammunition locked in a separate location.

Safe Storage

You are responsible for maintaining control of your weapon at all times. If you are storing a weapon that does not need to be immediately accessible, it’s best to unload the weapon, lock it up, and lock ammunition in a separate location.

You have many options for securing your weapon. You can individually lock up weapons using gun locks, or you could purchase a lock box or safe that can hold multiple guns. Different models offer different levels of security. For example, there’s an obvious difference between a sheet metal lock box and a 500-lb gun safe. Use a secure storage method that meets the needs identified in your family’s safety plan, discussed next.



Figure 6: Padlock around top strap

There are many types of locks that can help you store individual weapons safely. *Trigger locks* are designed to block access to the trigger and prevent the gun from being fired. *Cable locks* can block the gun's action and prevent it from being loaded. *Lock boxes* are designed to prevent access by persons without the key or access code. Many law enforcement agencies offer free gun locks through Project ChildSafe.⁶ Keep the keys with you to ensure the weapon cannot be accessed.



Figure 7: Pistol with cable lock

There are several ways to securely store an unloaded revolver. If you are using a commercial gun lock, follow the manufacturer's instructions. A secure and inexpensive method is to place a padlock around the revolver's top strap. This prevents the cylinder from closing and allows the revolver to be chained to an immovable object (Figure 6).

To securely store an unloaded pistol, you may place a cable lock through the empty magazine well and ejection port. This prevents insertion of a magazine and prevents the slide from closing. It also allows the pistol to be securely locked to an immovable object (Figure 7). Another alternative is disassembling the pistol and placing a padlock through the slide's ejection port.

Lock up ammunition in a separate location away from the weapon.

Rapid Access

Although handguns are most secure when unloaded and disabled with a gun lock, some people wish to store weapons in a rapidly-accessible manner. This requires a great deal of caution. If done improperly, the weapon remains accessible to unauthorized users. Children can easily find a handgun hidden in the nightstand. Putting a gun "out of reach" on a high shelf does not keep it away from kids—it just makes the child pull over a chair so he can reach.

⁶ "Project ChildSafe - Putting a lock on safety in your community." <http://www.projectchildsafe.org> (accessed July 26, 2011).

If you want to keep a gun accessible, several companies manufacture rapid-access lock boxes and safes. These units require the user to enter a user-programmed code. A good combination is easy to remember and takes only a second to enter, but is not easily guessed and prevents unauthorized access.

FAMILY SAFETY PLAN

You should create a family safety plan to reduce the possibility of a firearm accident in your home. As every family's circumstances are different, you must tailor your plan to your particular situation.



Figure 8: Rapid access lock box

Here are some introductory questions to consider when developing a safety plan for your family. Because families are different, this is not a comprehensive list. Give careful thought to your situation and how your safety plan can best protect you and your loved ones.

- Are weapons sufficiently secure to prevent unauthorized access?
- Who should have access to the weapon? Who should not?
- Where should the weapon be stored? In what condition? How will it be locked up?
- Where should the ammunition be stored? How will it be locked up?
- Where will the keys be stored?
- Is authorized access convenient, so users do not take shortcuts or fail to secure a weapon?
- Who should be taught the fundamental rules of gun safety?
- Are family members aware of the hazards weapons can pose?
- Is the plan updated as children age or family circumstances change? A ten-year-old using a pliers or screwdriver can defeat systems that might be adequate for a two-year old.
- Have all family members discussed the plan? Are they in agreement?

Children and Weapons

Even though you safely secure your guns, children may encounter weapons at the homes of friends or neighbors. Every year young children get access to guns. Sometimes these children shoot themselves; sometimes they shoot a playmate. Children need guidance and training on what to do if they encounter a firearm. The National Rifle Association's "Eddie Eagle" system teaches a simple lesson that can help kids protect themselves:⁷

***If you find a gun, STOP!
Don't Touch.
Leave the Area.
Tell an Adult.***

You will help prevent tragedy by storing weapons safely. You can also help protect your children by teaching them appropriate behavior.

State Statute § 948.55

Wisconsin statute § 948.55 states that leaving or storing a loaded firearm within the reach or easy access of a child can be a crime.⁸ You will examine the elements of this statute as part of this course.

⁷ "Eddie Eagle Safety Program." <http://www.nrahq.org/safety/eddie/index.asp> (accessed July 26, 2011).

⁸ See Appendix A of this student guide for the full text of the statute.

SAFE CARRY CONSIDERATIONS

You have already read the fundamental safety rules and learned how to properly unload and store a handgun. If you choose to carry a handgun, additional safety considerations come into play. You must identify safe ways to carry and maintain control of your handgun, avoid situations that may lead to gunfire, and know how to best interact with law enforcement officers to prevent the risk of mistaken-identity shootings.

IDENTIFY WAYS TO CONCEAL A WEAPON

For the purposes of this course, “concealed” means indiscernible from ordinary observation. This chapter identifies common and safe methods to conceal a handgun. You will find some methods more effective or suitable for your particular needs. Regardless of which method you choose, you must use proper equipment and techniques to carry safely. Unsafe carrying methods will dramatically increase the chance of losing your gun or an accidental discharge.

Holster Considerations

Handguns should always be carried in some type of holster. Good holsters protect the trigger, which helps prevent accidental discharges, and keep the gun oriented for a fumble-free draw. You cannot safely carry a handgun by simply sticking it in your pants, no matter what television might show. In reality, simply sticking a gun in your pants is unsafe. It often results in the weapon shifting, falling out, or sliding down your leg. Even worse, the trigger and safety are not protected from movement. To prevent these or other problems, use a quality holster.

A good holster will do all of the following:

- Cover the trigger to prevent accidental discharges.
- Stay in place for a fumble-free draw.
- Be comfortable enough to wear for long periods of time.
- Provide good concealment.
- Retain the gun securely within the holster to prevent loss.
- Release the gun when you draw it.

Examples of Concealment Methods

There are several ways to safely carry a concealed handgun. All methods have advantages and disadvantages and it is beyond the scope of this course to address them all. Your instructor will illustrate some common, safe, mainstream methods, but it is impossible to say which is best for you. Some holsters provide outstanding concealment but may be so slow to draw from that the handgun is

nearly useless. Other holsters may be very fast, but do not adequately conceal your handgun and expose you to security risks. Your chosen method will ultimately contemplate your training, experience, physique, clothing, comfort level, and individual needs. If you are unsure about which method(s) might work for your situation, discuss this with your instructor.

Waistband Holsters

The waistband is an easy-to-reach location and a good belt helps support the handgun's weight. Most of these methods require some sort of covering garment. Holsters may be worn either inside or outside of the waistband.

Ankle Holsters

As their name infers, these holsters are concealed on the ankle. One safety consideration is that you are immobilized while drawing the firearm.

In-Clothing Holsters

Handguns may be concealed in special holsters worn under the shirt. Examples include undershirts or belly bands with integral holsters. Possible safety considerations include sufficient trigger protection and speed of access.

Pocket Holsters

Pocket carry may seem simple, but it still demands that you use a holster to shelter the trigger and keep the handgun properly oriented for a smooth draw. Safety considerations include access to front pockets when seated, and security concerns similar to off-body carry if a jacket pocket is used. Do not put anything except the handgun and holster in that pocket.

Shoulder holsters

Shoulder holsters have a few unique safety considerations. You must not point the weapon at bystanders or yourself while drawing. Furthermore, the weapon is carried butt-forward, which may be more difficult to retain in a struggle.

Off-Body Carry

Firearms may be carried in purses, fanny packs, or day planners with special handgun compartments. These methods present unique safety considerations.

- It's easy to find examples of owners accidentally leaving firearms behind. In some cases the firearms were returned; in others, stolen; and in some cases, people have been accidentally shot by the person who discovered the firearm.
- Another security consideration is the increased possibility of theft. If your purse or day planner is stolen, the criminal may now have your home address *and* a firearm.
- Finally, the manufacturer should have designed the "holster" for firearm carry. Do not insert anything except the handgun in the holster compartment—the extra object could catch on the trigger, deactivate a safety, or otherwise endanger yourself or others.
- Vehicle carry has additional considerations, addressed in a later chapter.

Every carry method has advantages and disadvantages. Every carry method has safety-related considerations that you must take into account. Ensure that the method you use allows you to carry the handgun safely, access the gun if needed, and draw without pointing the handgun at an unintended target.

MAINTAIN CONTROL OF YOUR WEAPON

A key component of firearm safety is maintaining control of the weapon. When you keep control of the weapon you ensure it is not accessible to unauthorized users, children, or criminals. This enhances your safety and the safety of the general public.

Some methods of maintaining control have already been discussed. If you use an off-body carry method such as a purse or fanny pack, avoid setting the weapon down as much as possible. It's more difficult to lose a weapon that you are wearing than a weapon you can set down and walk away from. Thefts of purses and briefcases happen even in relatively secure workplaces—prevent your weapon from being misplaced or stolen.

Use a carry system that retains your weapon. You can evaluate this using an unloaded weapon. If you can do a somersault or cartwheel without any effect on your handgun, your holster will suffice for most likely scenarios. On the other hand, if moderate exercise like jogging would dislodge your gun, your carry system is inadequate—you may be unable to retain your gun in a struggle, fall, or accident. Even some commercial holsters may fail this test, so select your holster wisely.

Limit Who Knows You Carry

Your weapon control increases when that control is not challenged. When fewer people know you carry a weapon, fewer people can take the weapon from you. You can enhance your personal security by keeping your weapon concealed and by limiting the number of people who know you carry a concealed weapon.

By keeping your weapon concealed, observers will be unaware you are armed. Burglars have been known to target the homes of law enforcement officers, because those homes might contain a handgun. Openly carried weapons can result in unwanted attention of many different sorts. If you ever need your weapon to defend yourself, you benefit from having the element of surprise. Enhance your safety by using good concealment methods.

Your safety may be improved by limiting the number of people who know you carry a concealed weapon. Sharing your practices with casual acquaintances has few possible benefits, yet once that information is common knowledge it is impossible to place limits on who knows it. Co-workers can change and new

neighbors will eventually move in next door. You can't control their access to something that is common knowledge. Consider whether there is any benefit in sharing the fact that you carry a concealed weapon.

Travel Considerations

You should plan how to maintain control over your weapon when you travel. For example, you might go to a business and learn it prohibits carry of concealed handguns.

Legally, you might be able to leave your handgun in your vehicle.⁹ However, without prior planning this can pose concerns. Locked vehicles are not very secure, and the chance of a “smash-and-grab” increases when you are observed leaving valuables or a gun in a car. Whenever possible, plan ahead so you will not leave a gun in your vehicle. If you *must* leave a gun in your car on a temporary basis, consider using a lock-box that is cabled to a seat post or bolted to the vehicle frame.

During routine travels, leaving a gun in your vehicle is discouraged. A gun kept in the glove box might make you *feel* safer, but does not accomplish much. In a sudden attack it is questionable whether you will have time to lean over, open the glove box, obtain a firing grip, pull out the gun, turn it towards the threat, aim, and then begin shooting. However, a gun left in the glove box is susceptible to theft from your vehicle, or being carelessly handled by passengers.

Get Additional Training

Understand that criminals try to take weapons away from trained police officers. Given the opportunity, there is no reason to believe an assailant would hesitate to try to take away your gun. If you carry a firearm, seek out additional training. This course introduces basic safety concepts but does not address how to properly grasp a handgun, how to deal with close-quarter threats, or how to perform basic weapon retention tactics. If you pull out your gun and are not prepared to defend it, your firearm could be taken away and be used against you.

AVOID THE NEED TO USE YOUR WEAPON

As will be discussed later in this course, you are only entitled to use your weapon in situations that place you or others in danger of great bodily harm or death. Obviously you would be better off to avoid such a situation in the first place—because your gun is no guarantee that you will survive the encounter!

The best way to win a deadly confrontation is to avoid the situation in the first place.

⁹ See “*Employers, Businesses, and Property Owners*” in the next chapter of this Guide.

As a license holder, never act in ways that could escalate to a deadly encounter. For example, what could happen if you become involved in a “road rage” incident and use your firearm, even if you weren’t the first person to use force? At the very least your actions leading up to the event will be put under a microscope. If your behavior could be seen as having provoked the event, you could even lose your ability to argue it was legal self defense.¹⁰ Robert Heinlein wrote, “An armed society is a polite society. Manners are good when one may have to back up his acts with his life.”¹¹ If you find yourself in a conflict, do everything possible to de-escalate the situation.

Whenever possible, completely avoid situations or events that are frequent precursors to violence. You’re much safer when you avoid people with impaired judgment and avoid locations with routine or predictable violence. If you plan to go somewhere so unsafe that you want to take a gun, is it necessary to go there at all, even with a gun? It’s folly to intentionally place yourself in a situation where you might have to shoot someone.

Be Aware of Your Surroundings

In your everyday activities, be mentally awake and aware of your surroundings. If you are “switched on” you are much more likely to successfully recognize, avoid, and when necessary, confront danger.

Sufficient awareness may allow you to recognize potential danger in time to avoid it. Trust your intuition. If you sense that a situation is uncomfortable or potentially dangerous, leave!

WHAT TO DO WHEN YOU ENCOUNTER LAW ENFORCEMENT

It can be stressful to be contacted by a law enforcement officer. The law does not impose any requirements other than displaying your photo identification and concealed carry license when requested by a law enforcement officer.¹² However, you can take some recommended actions that will greatly assist in putting the officer at ease—and that demonstrate your desire to cooperate in making the encounter go as smoothly as possible.

1. If you are in a vehicle, roll down your window. At night, turn on the vehicle’s dome light. Stay in the vehicle unless the officer specifically tells you to get out.

¹⁰ Wis. Stat. § 939.48(2).

¹¹ Heinlein, R. A. (1981/1948). *Beyond this horizon*. Boston: Gregg Press.

¹² Wis. Stat. § 175.60(2g)(c)

2. Keep your hands where the officer can see them. If you are in a car, the best place to put them is on the steering wheel.
3. Immediately and calmly tell the officer that you have a concealed carry license. After you've told the officer you have a concealed carry license, inform the officer that you are also carrying a weapon.
4. Tell the officer where your permit and weapon are located. Do not reach for them unless specifically told to do so by the officer. Don't make any quick movements.
5. Cooperate fully with the officer.

In some circumstances a law enforcement officer may take temporary possession of the weapon to ensure the safety of the officer and others. However, in routine non-arrest contacts the officer will return the weapon at the end of the stop.

LEGAL IMPLICATIONS OF CARRYING A CONCEALED WEAPON

Thus far this guide has discussed how to enhance your *physical* safety. However, your *legal* safety is also at risk if you carry or use a weapon improperly. This chapter will address when and where you can carry a concealed weapon, and under what circumstances you are entitled to act in self-defense.

ELEMENTS OF THE CONCEALED CARRY LAW

Your legal safety depends on you knowing how, what, when and where you can legally carry your weapon. The DOJ has created a comprehensive “Frequently Asked Questions” (FAQ) document that provides a more comprehensive overview and answers many common questions. It is available on the DOJ website.¹³ Key elements of Wisconsin’s concealed carry law are summarized below. For complete information, refer to Wis. Stat. § 175.60.

Your legal safety depends on you knowing how, what, when and where you can legally carry your weapon.

Licenses and Identification

A Wisconsin concealed carry license allows you to carry a handgun, electric weapon, knife (except switchblades), or billy club. It does not permit carry of a machine gun, short-barreled rifle, or short-barreled shotgun.

When you are carrying a concealed weapon you must carry your concealed carry license *and* current and valid photo identification (your unexpired Wisconsin driver’s license or Wisconsin identification card). However, you are not required to carry your concealed carry license or photo identification in your home, place of business, or on land you lease or legally occupy.

You must show your concealed carry license and your photo identification to a law enforcement officer upon the officer’s request when the officer is acting in official capacity.¹⁴ If you fail to carry or display your license and photo identification, you may be ordered to forfeit not more than \$25. However, if you present, within 48 hours of the request, your license document and photographic identification to the law enforcement agency employing the officer who requested the documents, the forfeiture will be voided.¹⁵

¹³ <http://www.doj.state.wi.us/dles/cib/ConcealedCarry/ConcealedCarry.asp>.

¹⁴ Wis. Stat. § 175.60(2g)(c)

¹⁵ Wis. Stat. § 175.60(17)(a).

Weapons in Vehicles

License holders may carry a loaded, concealed handgun in a vehicle. However, rifles and shotguns must be unloaded before being placed in a vehicle, and must either be readily visible from outside the vehicle (not concealed) or be out of reach of the driver and passengers.¹⁶

LOCATIONS WHERE YOU CANNOT CARRY CONCEALED

It's important to note that Wisconsin law differentiates between the carry of a handgun with a license, the carry of a handgun without a license, and the carry of other types of firearms such as rifles or shotguns. *This student guide only summarizes the carry of a handgun with a license.* Do not rely on the information below for non-license carry, or carry of anything other than a handgun. For additional information, refer to DOJ's FAQ document and state statute.

Furthermore, federal law applies to federal government property and locations. Possession of a Wisconsin concealed carry license does not necessarily authorize carry of a weapon on federal property. Finally, a Wisconsin concealed carry license may or may not be accepted in other states. Each state has the power to regulate what non-resident permits—if any—it accepts.

Prohibited Locations

You cannot carry a weapon in the following locations:¹⁷

- Any portion of a building that is a police station, sheriff's office, state patrol station, or the office of a DOJ special agent.
- Any portion of a building that is a prison, jail, house of correction, or secured correctional facility.
- The Sand Ridge Secure Treatment Center, the Wisconsin Resource Center, or any secured unit or secured portion of a mental health institution, including a facility designated as the Maximum Security Facility at the Mendota Mental Health Institute.
- Any portion of a building that is a county, state, or federal courthouse.
- Any portion of a building that is a municipal courtroom if court is in session.
- A place beyond a security checkpoint in an airport.

¹⁶ 2011 WI Act 51 removed the "encased" requirement for long-guns effective 11/19/2011. However, neither 2011 WI Acts 35 or 51 allow concealed carry of a long-gun in a vehicle.

¹⁷ Wis. Stat. § 175.60(16). The prohibitions listed do not apply to parking facilities in those locations; courthouse carry by a licensed judge or a licensed person with written permission of a judge; or courthouse carry by licensed district attorneys or assistant district attorneys.

School Property

It is a felony to carry a firearm in a school or on the grounds of a school unless one of the following exceptions applies.¹⁸

- For use in a program approved by a school in the school zone.
- In accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual.
- Carry by a law enforcement officer acting in his or her official capacity.
- The firearm is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on the school premises is authorized by school authorities.
- The firearm is not loaded and is either encased or is in a locked firearms rack on a motor vehicle.
- Carry by a state-certified commission warden acting in his or her official capacity.
- Carry by a person legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest.

Within 1,000' of School Grounds

It is against the law to carry a firearm within 1,000 feet of school grounds unless:

- one of the “school property” exceptions shown above applies; or
- you are on private property that is not part of school grounds; or
- you have a concealed carry license.

Taverns and Alcohol

A licensee may carry a concealed weapon in a tavern only if they are not consuming alcohol on the premises.¹⁹ However, it is a class A misdemeanor (9 months jail and/or \$10,000 fine) for any person, whether or not they are a licensee, to go armed with a firearm while under the influence of an intoxicant.²⁰

It is a crime to carry a firearm while under the influence of an intoxicant.

Employers, Businesses, and Property Owners

Employers may prohibit employees from carrying a concealed weapon on the job. That prohibition does not apply to the employee’s own motor vehicle, even in the employer’s property or parking lot.

Businesses and property owners may generally prohibit people from carrying concealed weapons in their buildings and property. These prohibitions do not

¹⁸ Wis. Stat. § 948.605(2)(b) and 18 USC 922(q)(2)(B)

¹⁹ Wis. Stat. § 941.237(3)(cx).

²⁰ Wis. Stat. § 941.20(1)(b).

typically extend to parking areas, and there are limiting qualifications for apartment buildings, etc. See “*RESTRICTIONS BY BUSINESSES AND PROPERTY OWNERS*” in the DOJ’s FAQ document. Notice can be verbal or via signs posted at common entrances.²¹

State and Local Governments

State and local governments may prohibit people from carrying weapons into government buildings. Notice can be verbal or via a sign posted at common entrances. License holders can carry a handgun on public government land, including local and state parks and wildlife refuges.

SELF DEFENSE AND THE DEFENSE OF OTHERS

Wisconsin Statute § 939.48(1) states that you cannot use deadly force unless you reasonably believe that such force is necessary to prevent imminent death or great bodily harm to yourself, or in specific circumstances, to someone else.²² That statutory requirement contains critical information and requires careful analysis. Elements of the statute will be closely examined below.

Deadly force. The first element of the statute is “deadly force.” You are using “deadly force” anytime you shoot at someone.²³

Reasonable belief. You must “reasonably believe.” That means a person of average intelligence in the same situation could be expected to believe the same thing when faced with the same situation. Your belief must be *objectively* reasonable. For example, a person could have a sincere *subjective* belief that anyone wearing red pants is a deadly threat, but that belief is not objectively reasonable. Finally, a belief can be reasonable even if it is mistaken. For example, if someone points a gun at you it would be reasonable for you to believe your life was in imminent danger. If the gun was later found to be unloaded, your belief would have been mistaken but still would have been “reasonable.”

Death or great bodily harm. Next, there must be an “imminent threat of death or great bodily harm.” “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or

²¹ These prohibitions require signs measuring at least five inches by seven inches that inform people firearms or weapons are prohibited. These signs should be posted in prominent places near all entrances to the building or grounds where the restriction applies. Signs for posting land must be at least 11 inches square and be placed in conspicuous places for every 40 acres to be protected. Wis. Stat. § 943.13.

²² Wis. Stat. § 939.48 is shown in its entirety in the Appendix.

²³ Real gunshot wounds are not ‘remote-control punches’ as they are sometimes portrayed on television. Even if you could *guarantee* your gunshot would strike your assailant’s arm or leg—a virtual impossibility—shooting someone is always the application of deadly force.

which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.²⁴ Great bodily harm is the most serious injury possible without causing death. Great bodily harm is more serious than “substantial bodily harm,” which is “bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.”²⁵ If you are not in danger of death or great bodily harm, you are not justified in using deadly force.

Imminent Threat

The threat of death or great bodily harm must be “imminent.” Imminent means “about to happen.” In order for the danger to be imminent, the subject’s threat must meet all three of these criteria:

- Intent
- Weapon
- Delivery system

Intent is an indication that the subject intends to cause great bodily harm or death. Intent might be shown by acts, such as pointing a weapon at you or rushing at you with a knife, or may be verbal, such as stating they are going to kill you.

Weapon means that the person has a conventional or unconventional weapon capable of inflicting death or great bodily harm. Guns and knives are examples of conventional weapons. However, unconventional weapons such as baseball bats, chains, bricks, and broken bottles can also cause death. Some people can inflict death or great bodily harm with their hands or feet. For example, repeated kicks to the head are certainly capable of maiming or killing.

Delivery system means that the person has the ability to use the weapon to harm you. For example, a person with a knife 50 yards away on the other side of a high fence does not have the ability to use the weapon against you.

Preclusion

Necessary. You must reasonably believe that deadly force is *necessary* before you can use it. This means that even when a person has the intent, weapon, and delivery system to put you under imminent threat of death or great bodily harm, you can only use deadly force if no other *reasonable* option is available. You may not have the time or ability to do anything else except shoot, and you are not expected to make unreasonable or ineffective attempts to stop the assault before shooting. Still, deadly force should only be used as a last resort.

You can only use deadly force if no other *reasonable* option is available.

²⁴ Wis. Stat. § 939.22(14).

²⁵ Wis. Stat. § 939.22(38).

Castle Doctrine

Under certain conditions, use of deadly force may be presumed lawful when someone forcibly enters your home, business, or vehicle while you are present.²⁶ However, you must still follow all firearm safety rules, including rule four—be certain of your target. There are tragic examples of homeowners mistakenly shooting family members believed to be intruders. Regardless of the castle doctrine, you must satisfy the target requirements shown below.

Target Requirements

If you are under imminent threat of death or great bodily harm and have no other reasonable choice than to shoot, you still must meet three target requirements:

- Target acquisition. You must have a target. Firing your gun indiscriminately is not acceptable—you must have a specific target.
- Target identification. You must identify your intended target as the source of the threat. Just because you have acquired a target doesn't mean that it is the *correct* target.
- Target isolation. You must be able to shoot without recklessly endangering innocent bystanders.

You must stop shooting when you recognize the threat of death or great bodily harm has passed. For example, if your assailant runs away and no longer poses a threat, you must stop shooting. Chasing after your assailant is not recommended.²⁷

Post-Incident Actions

If you use your handgun to defend yourself—whether or not shots were fired—immediately report the incident to law enforcement. You might call, or have a friend or family member call and explain that they are reporting it for you. State whether there was a shooting or you are holding someone at bay. Describe your clothing and where your gun is now. If anyone was injured, request an ambulance. If your assailant fled, give a description of the suspect, any involved vehicle and license plate, and the last known direction of travel.

If you shot your attacker, decide whether it is safe to approach before rendering first aid. Your best course of action may be to summon

Some companies sell “concealed carry badges.” Badges may expose you to charges of “impersonating a peace officer.” Off-duty officers are instructed to follow the same procedures shown here: immediately follow the directives of uniformed officers; never turn towards an officer with a gun in your hand; and expect to be handcuffed until the situation is sorted out. A badge doesn't change that.

²⁶ Wis. Stats. § 895.62 and § 939.48(1m) are shown in their entirety in the Appendix.

²⁷ See Wis. Stat. § 939.48(2).

law enforcement to stabilize the scene so medical professionals can begin to attend to the suspect.

When law enforcement officers arrive, avoid meeting them while visibly armed. If possible, holster your firearm or set the gun down before they arrive. Officers may not know you are the “good guy” and you do not want to be mistaken for a suspect with a gun. Responding officers do not have the benefit of knowing what happened before they arrived—they must focus on stopping any ongoing violence and preventing further bloodshed. Until officers sort out who is who, anyone with a gun is a potential threat.

Never turn towards officers with a gun in your hand. Immediately comply with all instructions given to you by responding law enforcement officers.

As an example of how things could go wrong: perhaps an officer hears shots and arrives on scene before you can call 911. The officer finds you standing over a body with a gun in your hand and commands you to drop the weapon. You, meanwhile, may be in a chaotic situation unlike any you’ve experienced before. Startled by the order, you spin towards the sound. The officer, however, only knows that you’re armed, you’ve shot one person already, and you are now defying the order and trying to bring your gun to bear on the officer. The officer may very likely shoot you.

When you are with a friend or family member, consider having that person guide law enforcement officers to your location. Even if you are the person who called, officers will stabilize the event by disarming *everyone* until the situation is fully understood.

You should expect to be handcuffed, and expect your weapon to be seized. When possible, point out any witnesses that saw the attack, and any evidence that would help show what happened.

Law enforcement will conduct an investigation to determine what happened. You will be asked to provide a statement. Law enforcement cannot just assume your actions were appropriate—you will have to justify your acts. You can assist the investigation by providing a clear, coherent statement explaining what you saw, what your assailant did, and why you acted as you did.

DEFENSE OF PROPERTY

Wisconsin statute § 939.49 states people have a right to use reasonable force to defend their belongings, but deadly force is not reasonable solely for defense of property.²⁸ Wisconsin places the sanctity of human life above anyone’s belongings.

²⁸ Wis. Stat. § 939.49 is shown in its entirety in the Appendix.

These examples illustrate the difference between self-defense and defense of property:

- A robber points a handgun at you and demands your wallet. Because the robber is imminently threatening you with death, you could shoot to protect your life. You would not be shooting solely to defend your wallet.
- You look outside and see someone trying to steal your car. You order him to stop but the suspect starts the engine. You would not be justified in shooting, as you are not in danger and would solely be preventing the theft of property.

License holders should give careful consideration to the potential ramifications of becoming involved in defense of property. Is the property worth the potential risk you might assume if you stop its theft? When might it be better to call law enforcement rather than becoming directly involved?

Civil Liability

Wisconsin's concealed carry law does not exempt individual license holders from civil liability for their actions. You could be sued and found liable for property damage, injury, or deaths caused by your actions.

The only liability protection provided by Wisconsin statute is for the following actors:²⁹

- *A person who does not prohibit an individual from carrying a concealed weapon on property that the person owns or occupies* is immune from any liability arising from his or her decision.
- *An employer who does not prohibit one or more employees from carrying a concealed weapon* is immune from any liability arising from that decision.
- *A person providing a firearms training course in good faith* is immune from liability from any act or omission related to the course if the course is one of the courses listed in statute.

Wis. Stat. § 895.62 also affects liability in certain situations, and is shown in Appendix F.

However, even with these statutory provisions, there may be circumstances where the actors described may be exposed to liability. A discussion of such situations is beyond the scope of this course.

²⁹ Wis. Stat. § 175.60(21)(b)-(d).

OBTAIN, MAINTAIN, AND RENEW A LICENSE

You must meet certain criteria to obtain a concealed carry license. After receiving a license, you must follow certain procedures to maintain it, and follow other procedures if you want to renew it. This chapter will discuss how to perform each of these steps.

OBTAIN A CONCEALED CARRY LICENSE

Applicants must meet certain criteria to be eligible to obtain a Wisconsin concealed carry license.³⁰

Eligibility

An applicant must:

- Be 21 years of age or older.
- Not be prohibited from possessing a firearm under state or federal law.
- Not have been ordered as a condition of bail or release in a criminal case from possessing a dangerous weapon.
- Be a Wisconsin resident.
- Provide proof of the firearms training required for a license.

Ineligibility

The following people are ineligible for a concealed carry license:

- A person under 21 years of age.
- A person who is prohibited from possessing a firearm under state or federal law (see Appendix E).
- A person who has been ordered as a condition of bail or release in a criminal case from possessing a dangerous weapon.
- A person who is not a Wisconsin resident.
- A person who has not provided proof of the training required for the issuance of a license.

³⁰ Wis. Stat. § 175.60(3).

Application Process

1. Download your application from the Department of Justice website.³¹ The application requires three signatures and your current Wisconsin driver's license or identification card number. Be sure you print legibly.
 - a. The residential address you list on your concealed carry application must be the same as the address registered with the Wisconsin Department of Transportation, or your application will be denied. You can update your driver license or identification card online.³²
2. Collect the documents that must be submitted with the application:
 - a. Check or money order for \$50, payable to "Wisconsin Department of Justice." Checks must have the name and address printed on the check (no "starter" or "counter" checks).
 - b. Proof of training (see below). Your document will not be returned, so use a clear, easily-readable photocopy of the original document.
3. Mail the completed materials to:

Wisconsin Department of Justice
ATTN: License Unit
P.O. Box 7130
Madison, WI 53707-7130

Proof of Training

Act 35 requires applicants to provide proof of firearms safety training. Documents that will be accepted as proof of meeting the law's training requirement include:

1. Wisconsin Department of Natural Resources hunter education certificate.
2. An unrevoked concealed carry license from another state or jurisdiction. The license may be current or expired. You must include affirmation form DJ-LE-289, available on the DOJ website, verifying the license is not revoked for cause.
3. Proof of military, law enforcement, or security firearms training.
 - a. *Former military*: DD214 or DD256 form showing either "honorable" or "general under honorable conditions" discharge from the US military.
 - b. *Active military*: Certificate of completion of basic training with service record of successful completion of small arms training.
 - c. *Law enforcement*: Certification letter from the Wisconsin Law Enforcement Standards Board or *Law Enforcement Standards Board Transcript of Recruit Course Completion*, or comparable documents from another state.
 - d. *Security*: Department of Safety and Professional Services Firearms Certification of Proficiency, or comparable documents from another state.

³¹ <http://www.doj.state.wi.us/dles/cib/ConcealedCarry/ConcealedCarry.asp>

³² <http://www.dot.state.wi.us/drivers/drivers/address-change.htm>

4. Department of Justice Firearm Safety Course certificate (issued by DOJ-certified instructors).
5. Firearms safety or training certificate from a course taught by a national or state organization that certifies firearms instructors, or by an instructor certified by a national or state organization that certifies firearms instructors, or to the public by a law enforcement agency. If you participate in one of these courses, attach a copy of the certificate or affidavit from that course containing the following information:³³
 - a. Applicant's name
 - b. Name of the firearms safety or training course
 - c. Date on which the applicant completed the firearms safety or training course
 - d. The name of the instructor who taught the firearms safety or training course and the name of the agency or organization that certified the instructor

MAINTAIN AND RENEW YOUR LICENSE

Lost or Destroyed License

If a license is lost or destroyed, you may request a replacement. Send any remaining portions of the license along with a \$12 fee and request for a replacement license to:

Wisconsin Department of Justice
ATTN: License Unit
P.O. Box 7130
Madison, WI 53707-7130

If the license was lost, a new license number will be assigned.

Change of Address

If you move, you must notify the Department of Justice within thirty (30) days. Send notice to the above address.

Suspension or Revocation of License

A license will be suspended if a court orders the licensee not to possess a dangerous weapon as a condition of bail. A license will be revoked if the license holder is no longer eligible to possess a weapon.

The DOJ will be notified of court actions that would suspend or revoke a CCW license. If a license is suspended or revoked, the DOJ will notify the licensee by mail. The licensee must return the license personally or by certified mail within

³³ The Joint Committee for Review of Administrative Rules suspended other certificate requirements on November 7, 2011.

seven (7) days of suspension or revocation to the DOJ at the address above. Intentionally failing to do so is a crime.

Note: it is unlawful to possess a firearm if you are prohibited from doing so by law or a court, regardless of your license status.

Renewing a License

Concealed carry licenses are valid for five years from the date of issue. Licensees will receive a letter at least 90 days before expiration, sent to the address on file with the DOJ. The letter will contain instructions for renewing the license.

APPENDIX A – WIS. STAT. § 948.55

948.55 Leaving or storing a loaded firearm within the reach or easy access of a child.

(1) In this section, "child" means a person who has not attained the age of 14 years.

(2) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class A misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) discharges the firearm and the discharge causes bodily harm or death to himself, herself or another.

(3) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class C misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) possesses or exhibits the firearm in a public place or in violation of s. 941.20.

(4) Subsections (2) and (3) do not apply under any of the following circumstances:

(a) The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.

(b) The firearm is securely locked with a trigger lock.

(c) The firearm is left on the person's body or in such proximity to the person's body that he or she could retrieve it as easily and quickly as if carried on his or her body.

(d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person's duties. Notwithstanding s. 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.

(e) The child obtains the firearm as a result of an illegal entry by any person.

(f) The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under s. 939.48.

(g) The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.

(h) The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breech-loading firearm.

(5) Subsection (2) does not apply if the bodily harm or death resulted from an accident that occurs while the child is using the firearm in accordance with s. 29.304 or 948.60(3).

APPENDIX B – JOSHUA LESNICK



Gun safety comes too late for dad

By MARK HORNICKEL

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As a federal police officer, Michael Lesnick always hoped he would never have to shoot someone.

But on the morning of Nov. 29, 2007, he was faced with something much worse. His 3-year-old son, Joshua, found his father's gun in a bedroom nightstand, shot himself in the chest and died.

"After this happened, I didn't want to look in the mirror," Lesnick, 43, of Kenosha, said in a recent interview. "I see my son's killer every day when I look in the mirror. I did everything but pull the trigger, but put the gun in his hand."

Lesnick, who said he wanted to share his experience now because he has completed his court sentence, is trying to relay his story to other gun owners —

particularly law enforcement officers, who might have become as complacent with their guns as he says he did.

"The message is about keeping guns secured and put away," said Lesnick, who spent six years working as a federal police officer in North Chicago and was a certified firearms instructor.

"Familiarity breeds contempt and complacency. Cops are handling guns all the time. Sometimes you get lax wearing body armor, and I just want to remind everybody of the safety procedures."

In June 2008, Lesnick was sentenced to one year of probation after pleading no contest to a misdemeanor charge for keeping a loaded firearm near a child, as a party to the crime. A judge also ordered him to pay a \$500 fine and have counseling.

Lesnick's wife, Jessica, 35, pleaded guilty to the same crime and was sentenced to 18 months probation in August 2008. She declined to be interviewed for this story.

Fateful night

According to reports, police were called to the Lesnicks' Kenosha home on Nov. 29, 2007, after Joshua suffered a single gunshot wound. He was taken to St. Catherine's Medical Center, where he was pronounced dead.

Michael Lesnick was at work at the time. Jessica Lesnick, who was at home with Joshua and the couple's 5-year-old son, reportedly was in a second-floor bathroom when the shot from the .40-caliber semi-automatic gun rang out. She then found Joshua lying on the floor of her bedroom.

The 5-year-old was not in the room with Joshua and was not hurt.

As a toddler, Joshua was so curious, his parents nicknamed him "Monkey Moo," his father remembered. A week before his death, Lesnick caught the boy after he'd dragged a kitchen chair to a countertop and climbed it to reach for some candy stored above the refrigerator.

"Josh was an incredible baby," Lesnick said. "He was a wonderful, inquisitive little boy. Everybody that ever met him fell in love with him. He touched so many."

On the day he died, Joshua had gone into his parents' bedroom, Lesnick believes, to look for a pair of flashlights he and his brother loved to play with. Lesnick kept the flashlights in a nightstand next

to a box that held the gun. Joshua had never gone into the bedroom before, and Lesnick never thought one of his boys would attempt to handle the gun.

"The boys were fascinated with them," Lesnick said of the flashlights. "I did not think they had the physical strength to fire that gun. I relied on a very bad idea."

Gun locks not in use

A judge said Lesnick had gun locks in the house but was not using them. Lesnick's attorney argued the father kept loaded firearms within reach in case he had to thwart an attacker in his home, and that gun locks or keeping the guns unloaded would have compromised his response time.

"I wish that it was locked," Lesnick says now. "There are safes, and for those who cannot afford gun locks or safes, 99 percent of police departments across the nation will give you a gun lock for your firearm."

The Lesnicks cooperated fully with authorities, and Michael Lesnick said he has no immediate reaction to observers who think their court sentences were too harsh. Most people have reacted in two extremes — they hold him and his wife responsible for Joshua's death, or they feel the parents' pain, Lesnick said.

"It's not like I was Joe Crackhead," he said. "This was a mistake. That's an understatement. A gun in a bedside nightstand is not in the plan."

Trying to recover

Since Joshua's death, the family has struggled to recover the lives they knew.

The tragedy hurt the Lesnicks' marriage, and the couple is divorcing. After Joshua's death, Jessica Lesnick also was caught shoplifting multiple times; court records show she was charged with retail theft five times, but two of those charges were later dismissed, and she pleaded guilty to the others.

"The way she dealt with it was very different than the way I dealt with it," Lesnick said. "It caused the death of our marriage."

Lesnick wants to return to law enforcement but realizes he may not get that opportunity now. He had left his federal police job about a year before Joshua's death and had been working a security job at the time.

"A conviction makes it hard to return to that field," he said. "I still want to help people. I still want to get that message out."

Message resonates

Lesnick has dispatched his story to law enforcement friends and networks across the country. He's received numerous responses, including one from an Arkansas sheriff's deputy who said he woke up his wife and had her move his two guns into a locked case above a closet.

"You may well have prevented similar tragedies," the deputy and father of two young children wrote to Lesnick. "They never have touched my firearms before, so I have become lax in putting them away. ... I probably would not have thought twice about it had it not been for you."

In spite of the tragedy, Lesnick said he remains a supporter of gun ownership and gun rights. He also wishes Wisconsin would join the majority of states in the country by creating a concealed-carry law. Only Wisconsin and Illinois do not issue concealed-carry permits.

"Ultimately I would like to see Wisconsin join the rest of the country in creating a concealed-carry law so that Joe and Judy citizen can legally (carry a weapon)," he said.

But Lesnick said his son's death has put a renewed emphasis on gun safety and education. He acknowledges guns should be secured and kept away from ammunition to prevent similar accidents.

"It needs to be secure so that no one can get their hands on it," Lesnick said. "It would have been no less a tragedy if someone had stolen a gun and shot someone's son."

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*Shortly after this article was published Mike & Jessica reconciled.
They reside in southeast Wisconsin with their surviving children.*

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APPENDIX C – WIS. STAT. § 939.48

939.48 Self-defense and defense of others.

(1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

(1m)(a) In this subsection:³⁴

1. "Dwelling" has the meaning given in s. 895.07(1)(h).
2. "Place of business" means a business that the actor owns or operates.

(ar) If an actor intentionally used force that was intended or likely to cause death or great bodily harm, the court may not consider whether the actor had an opportunity to flee or retreat before he or she used force and shall presume that the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself if the actor makes such a claim under sub. (1) and either of the following applies:

1. The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's dwelling, motor vehicle, or place of business, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or reasonably believed that an unlawful and forcible entry was occurring.
2. The person against whom the force was used was in the actor's dwelling, motor vehicle, or place of business after unlawfully and forcibly entering it, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or reasonably believed that the person had unlawfully and forcibly entered the dwelling, motor vehicle, or place of business.

(b) The presumption described in par. (ar) does not apply if any of the following applies:

1. The actor was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity at the time.

³⁴ 2011 Wisconsin Act 94 created § 895.62 and § 939.48(1m) relating to self-defense, effective December 21, 2011.

2. The person against whom the force was used was a public safety worker, as defined in s. 941.375 (1) (b), who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This subdivision applies only if at least one of the following applies:

a. The public safety worker identified himself or herself to the actor before the force described in par. (ar) was used by the actor.

b. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker.

(2) Provocation affects the privilege of self-defense as follows:

(a) A person who engages in unlawful conduct of a type likely to provoke others to attack him or her and thereby does provoke an attack is not entitled to claim the privilege of self-defense against such attack, except when the attack which ensues is of a type causing the person engaging in the unlawful conduct to reasonably believe that he or she is in imminent danger of death or great bodily harm. In such a case, the person engaging in the unlawful conduct is privileged to act in self-defense, but the person is not privileged to resort to the use of force intended or likely to cause death to the person's assailant unless the person reasonably believes he or she has exhausted every other reasonable means to escape from or otherwise avoid death or great bodily harm at the hands of his or her assailant.

(b) The privilege lost by provocation may be regained if the actor in good faith withdraws from the fight and gives adequate notice thereof to his or her assailant.

(c) A person who provokes an attack, whether by lawful or unlawful conduct, with intent to use such an attack as an excuse to cause death or great bodily harm to his or her assailant is not entitled to claim the privilege of self-defense.

(3) The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer, but also to the unintended infliction of harm upon a 3rd person, except that if the unintended infliction of harm amounts to the crime of first-degree or 2nd-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, first-degree or 2nd-degree reckless injury or injury by negligent handling of dangerous weapon, explosives or fire, the actor is liable for whichever one of those crimes is committed.

(4) A person is privileged to defend a 3rd person from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend himself or herself from real or apparent unlawful interference, provided that the person reasonably

believes that the facts are such that the 3rd person would be privileged to act in self-defense and that the person's intervention is necessary for the protection of the 3rd person.

(5) A person is privileged to use force against another if the person reasonably believes that to use such force is necessary to prevent such person from committing suicide, but this privilege does not extend to the intentional use of force intended or likely to cause death.

(6) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

"[T]here is both a subjective component to self-defense—that is, the defendant must actually believe he or she was preventing or terminating an unlawful interference; and an objective threshold component—that is, the belief must be reasonable." State v. Hampton, 207 Wis.2d 367, 380-81, 558 N.W.2d 884 (Ct. App. 1996). "The reasonableness of the belief is judged from the position of 'a person of ordinary intelligence and prudence' in the same situation as the defendant, not of a person identical to the defendant placed in the same situation as the defendant." Hampton, 207 Wis. 2d at 381.

There is no privilege to resist an unlawful arrest. That former common law privilege has been abrogated. State v. Hobson, 218 Wis. 2d 350, 380-81, 577 N.W.2d 825 (1997).

939.48 - ANNOT.

While there is no statutory duty to retreat, whether the opportunity to retreat was available goes to whether the defendant reasonably believed the force used was necessary to prevent an interference with his or her person. A jury instruction to that effect was proper. State v. Wenger, 225 Wis. 2d 495, 593 N.W.2d 467 (Ct. App. 1999), 98-1739.

939.48 - ANNOT.

Although intentionally pointing a firearm at another constitutes a violation of s. 941.20, under sub. (1) a person is privileged to point a gun at another person in self-defense if the person reasonably believes that the threat of force is necessary to prevent or terminate what he or she reasonably believes to be an unlawful interference. State v. Watkins, 2002 WI 101, 255 Wis. 2d 265, 647 N.W.2d 244, 00-0064.

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APPENDIX D – WIS. STAT. § 939.49

939.49 Defense of property and protection against retail theft.

(1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with the person's property. Only such degree of force or threat thereof may intentionally be used as the actor reasonably believes is necessary to prevent or terminate the interference. It is not reasonable to intentionally use force intended or likely to cause death or great bodily harm for the sole purpose of defense of one's property.

(2) A person is privileged to defend a 3rd person's property from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend his or her own property from real or apparent unlawful interference, provided that the person reasonably believes that the facts are such as would give the 3rd person the privilege to defend his or her own property, that his or her intervention is necessary for the protection of the 3rd person's property, and that the 3rd person whose property the person is protecting is a member of his or her immediate family or household or a person whose property the person has a legal duty to protect, or is a merchant and the actor is the merchant's employee or agent. An official or adult employee or agent of a library is privileged to defend the property of the library in the manner specified in this subsection.

(3) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

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APPENDIX E – PERSONS PROHIBITED FROM POSSESSING FIREARMS

Wisconsin Law

Wisconsin law prohibits the following people from possessing a firearm:³⁵

- Anyone a court has ordered as a condition of release on bail to be prohibited from possessing a dangerous weapon.
- Anyone convicted of a felony in Wisconsin, unless the person has been pardoned of the felony and has been expressly authorized to possess a firearm under 18 USC app. 1203; or has been relieved of disabilities under 18 USC 925(c).
- Anyone convicted of a crime elsewhere that would be a felony if convicted in Wisconsin, unless the person has been pardoned of the felony and has been expressly authorized to possess a firearm under 18 USC app. 1203; or has been relieved of disabilities under 18 USC 925(c).
- Anyone adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in this state would be a felony, unless a court subsequently determines that the person is not likely to act in a manner dangerous to public safety.
- Anyone found not guilty of a felony in Wisconsin by reason of mental disease or defect, unless, a court subsequently determines that: 1) the person is no longer insane or no longer has a mental disease, defect or illness, AND 2) the person is not likely to act in a manner dangerous to public safety.
- Anyone found not guilty or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental illness, disease or defect, unless, a court subsequently determines that: 1) the person is no longer insane or no longer has a mental disease, defect or illness, AND 2) the person is not likely to act in a manner dangerous to public safety.
- Anyone committed to treatment under § 51.20(13)(a) and ordered not to possess a firearm under § 51.20(13)(cv)1., unless the prohibition has been cancelled.
- Anyone ordered not to possess a firearm under § 51.20(13)(cv)1, 51.45(13)(i)1, 54.10(3)(f)1, or 55.12(10)(a) (mental health commitments), unless the court order has been cancelled.
- Anyone enjoined under an injunction issued under § 813.12 or 813.122 (harassment or domestic abuse) or under a tribal injunction, as defined in § 813.12(1)(e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject

³⁵ Wis. Stat. § 941.29.

to the requirements and penalties under § 941.29 and that has been filed under § 806.247(3), unless the person is a peace officer and the person possesses a firearm while in the line of duty or, if required to do so as a condition of employment, while off duty; OR, 2) the person is a member of the U.S. armed forces or national guard and the person possesses a firearm while in the line of duty. (Note – the prohibition against firearm possession under this subsection does not apply to any correctional officer employed before May 1, 1982, who is required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity.)

Federal Law

Federal law prohibits the following people from possessing a firearm or ammunition that has been shipped or transported in interstate or foreign commerce:³⁶

- A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- A person who is a fugitive from justice;
- A person who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- A person who has been adjudicated as a mental defective or who has been committed to a mental institution;
- A person who, being an alien—
 - is illegally or unlawfully in the United States; or
 - except as provided in subsection 18 USC 44 § 922(y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(26)));
- A person who has been discharged from the Armed Forces under dishonorable conditions;
- A person who, having been a citizen of the United States, has renounced his or her citizenship;
- A person who is subject to a court order that—
 - was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and;
 - Either

³⁶ 18 USC Ch. 44 § 922(g)(1)-(9).

- includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- A person who has been convicted in any court of a misdemeanor crime of domestic violence.

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APPENDIX F – WIS. STAT. § 895.62

895.62 Use of force in response to unlawful and forcible entry into a dwelling, motor vehicle, or place of business; civil liability immunity.³⁷

(1) In this section:

(a) "Actor" means a person who uses force that is intended or likely to cause death or great bodily harm to another person.

(b) "Dwelling" has the meaning given in s. 895.07(1)(h).

(c) "Place of business" means a business that the actor owns or operates.

(2) Except as provided in sub. (4), an actor is immune from civil liability arising out of his or her use of force that is intended or likely to cause death or great bodily harm if the actor reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person and either of the following applies:

(a) The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's dwelling, motor vehicle, or place of business, the actor was on his or her property or present in the dwelling, motor vehicle, or place of business, and the actor knew or had reason to believe that an unlawful and forcible entry was occurring.

(b) The person against whom the force was used was in the actor's dwelling, motor vehicle, or place of business after unlawfully and forcibly entering it, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or had reason to believe that the person had unlawfully and forcibly entered the dwelling, motor vehicle, or place of business.

(3) If sub. (2)(a) or (b) applies, the finder of fact may not consider whether the actor had an opportunity to flee or retreat before he or she used force and the actor is presumed to have reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person.

(4) The presumption described in sub. (3) does not apply if any of the following are true:

³⁷ 2011 Wisconsin Act 94 created § 895.62 and § 939.48(1m) relating to self-defense, effective December 21, 2011.

(a) The actor was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity at the time he or she used the force described in sub. (2).

(b) The person against whom the force was used was a public safety worker, as defined in s. 941.375(1)(b), who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This paragraph applies only if at least one of the following applies:

1. The public safety worker identified himself or herself to the actor before the force described in sub. (2) was used by the actor.

2. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker.

(5) In any civil action, if a court finds that a person is immune from civil liability under sub. (2), the court shall award the person reasonable attorney fees, costs, compensation for loss of income, and other costs of the litigation reasonably incurred by the person.

(6) Nothing in this section may be construed to limit or impair any defense to civil or criminal liability otherwise available.